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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,465	03/29/2004	Doyle D. Hendrickson	Hendrickson DivIII	2901

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EXAMINER	
PARSLEY, DAVID J	

ART UNIT	PAPER NUMBER
3643	

DATE MAILED: 05/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/813,465	HENDRICKSON, DOYLE D.	
	Examiner	Art Unit	
	David J. Parsley	3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 April 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-29* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-29* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *29 March 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Detailed Action

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4-14-06 has been entered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 8-10, 14-16, 19-20 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by JP Patent No. 3-188887.

Referring to claims 1 and 19, the Japanese patent discloses a cutting system comprising, a frame member – at 4-6, a blade body member – at 1-3, which is responsive to the frame member – see for example figures 1-11, a blade element – at 7, directly connected to the blade body member which is held by the blade body member – see for example figures 2-4, wherein the

blade element is entirely user removable and replaceable from the blade body member – see for example figure 1, and has a straight cutting edge – see the bottom of blade 7 in figures 1-3, and an end – see proximate 6 in figure 2, an acute angle end point presented at the end of the blade element – see for example at 8 in figures 1-4, a pivot element – at 22,23, connected to the frame member wherein the blade body member which permits the blade body member to pivot with respect to the frame member – see for example figures 1-4, and a blade cavity – in items 4-6 as seen in figures 1-4, on the frame member wherein the blade cavity is configured to shield at least a portion of the cutting edge of the blade element when the blade body member is pivoted with respect to the frame member – see for example figures 1-4.

Referring to claims 2 and 20, the Japanese patent discloses the acute angle end point presented at the end of the blade element comprises a dual straight edge element – see for example figures 1-11.

Referring to claim 8, the Japanese patent discloses the blade retention cavity is adapted for insertion of a replaceable blade – see for example figures 1-4, and further comprising a retaining element – at 5,6, wherein the replaceable blade is adapted to be held against the blade body member – at 1-3, by the retaining element – see for example figures 1-4.

Referring to claim 9, the Japanese patent discloses the retaining element comprises a single retaining element – see for example at 5,6 in figures 1-4.

Referring to claim 10, the Japanese patent discloses the frame member has an external frame surface – see for example figures 1-4, wherein the blade body member has an external blade body surface – see for example figures 1-4, and wherein the external frame surface and the external blade body surface present aligned shapes – see for example figures 1-4, when the blade

body member is pivoted with respect to the frame member so that at least a portion of the cutting edge of the blade element is shielded by the blade retention cavity – see for example figures 1-4.

Referring to claim 14, the Japanese patent discloses a cut material centering element – at 3,6,9, behind at least a portion of the cutting edge – see for example figures 1-4.

Referring to claim 15, the Japanese patent discloses the cut material centering element comprises a concave feature – see at 3,6,9 in figures 1-4.

Referring to claim 16, the Japanese patent discloses the blade body member – at 1-3, is tapered and wherein the cut material centering element comprises the tapered blade body member – at 3 as seen in figures 1-4.

Referring to claim 22, the Japanese patent discloses the cutting instrument has a blade back portion and a frame front portion – see figures 1-4, and wherein the step of pivoting the blade with respect to the frame member comprises the step of aligning at least a portion of the blade back portion and the frame front portion – see for example figures 1-4.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 3 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Japanese patent as applied to claims 1 or 19 above, and further in view of U.S. Patent No. 5,301,432 to Richardson et al.

Referring to claims 3 and 21, The Japanese patent does not disclose a retaining element that holds the blade element with respect to the blade body member and wherein the retaining element is positioned approximately equidistant between the pivot element and the acute angle end point. Richardson et al. discloses a retaining element – at 18, that holds the blade element with respect to the blade body member – at 16,44, and wherein the retaining element is positioned approximately equidistant between the pivot element and the acute angle end point – see for example figures 1-10. Therefore it would have been obvious to one of ordinary skill in the art to take the device of the Japanese patent and add the retaining element of Richardson et al., so as to allow for the blade element to be securely held to the blade body member.

Claims 4-7 and 23-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Japanese patent as applied to claims 1 and 19 above, and further in view of U.S. Patent No. 579,655 to Saladee et al.

Referring to claims 4, 23 and 26, the Japanese patent does not disclose a releasable pivot lock to which the blade body member is responsive and which detachably prevents the blade element from pivoting with respect to the frame member. Saladee et al. does disclose a releasable pivot lock – at B,C,H,G,I, to which the blade body member – at F, is responsive and which detachably prevents the blade element – at F', from pivoting with respect to the frame member – at A,D, – see for example figures 1-8 and page 1 lines 58-87. Therefore it would have been obvious to one of ordinary skill in the art to take the device of the Japanese patent and add the

pivot lock of Saladee et al., so as to allow for the blade to be in an unexposed position when not deployed thus making the device safer to operate.

Referring to claim 5, the Japanese patent as modified by Saladee et al. further discloses the releasable pivot lock – at H,I, locks the blade element – at F', at three roughly orthogonal positions – see for example figure 5 of Saladee et al., where the blade element – at F', is orthogonal to the frame – at A,D, at multiple positions.

Referring to claims 6 and 24, the Japanese patent as modified by Saladee et al. further discloses the blade element – at F' of Saladee et al., and the blade body – at F, are pivoting elements, and wherein the releasable pivot lock – at B,C,H,I, comprises a locking mechanism – at B,C,H, to which the blade element is responsive, and a spring element – at I, which yieldably urges the locking mechanism – at B,C, against at least one of the pivoting elements – at F' – see for example figures 1-8 of Saladee et al.

Referring to claims 7 and 25, the Japanese patent as modified by Saladee et al. further discloses the blade element – at F' of Saladee et al., and the blade body – at F, are pivoting elements and wherein the releasable pivot lock – at B,C,H,G,I comprises, a pin – at G, to which the blade element is responsive, and a spring element – at I, which yieldably urges the pin against at least one of the pivoting elements – at F – see for example figures 1-8 of Saladee et al.

Claims 11-12, 17-18 and 27-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Japanese patent as applied to claims 1 or 19 above, and further in view of U.S. Patent No. 3,839,788 to Addis.

Referring to claim 11, the Japanese patent does not disclose the frame member comprises a frame member having at least one finger hole. Addis does disclose the frame member – at 16-

24, comprises a frame member having at least one finger hole – see for example figure 13. Therefore it would have been obvious to one of ordinary skill in the art to take the device of the Japanese patent and add the finger hole of Addis, so as to allow for the device to be securely held by the user during use.

Referring to claims 12 and 28, the Japanese patent as modified by Addis further discloses a frictional rotational restraint element – at 30a,30b,42, located on the frame – at 12-16, adjacent at least one finger hole – proximate 22,24, and substantially diametrically opposed to the thumb rest – at 48 – see for example figures 11-13 of Addis.

Referring to claims 17 and 29, the Japanese patent does not disclose a thumb rest to which the frame member is responsive and which in use acts to cause a force, which is substantially perpendicular to at least a portion of the blade element. Addis does disclose a thumb rest – at 18b or 48, to which the frame member – at 12-16, is responsive and which in use acts to cause a force, which is substantially perpendicular to at least a portion of the blade element – see for example figures 11-13. Further, the limitations of when in use the thumb rest acts to cause a force which is substantially perpendicular to at least a portion of the blade element is an intended use recitation and it is deemed that the Addis device is capable of performing the claimed intended use in that the pressure applied to the thumb rest by the hand of the user produces a force which can be in any direction with respect to the blade. Therefore it would have been obvious to one of ordinary skill in the art to take the device of the Japanese patent and add the thumb rest of Addis, so as to allow the user to have greater control of the blade element during operation of the device.

Referring to claim 18, the Japanese patent as modified by Addis further discloses the frame member – at 4-6 of the Japanese patent, presents a spatial relation with respect to a cutting surface – at 7,8 – see for example figures 1-4, and further comprising a substantially planar lifting edge – see at the outer portion of 4-6 and a substantially planer retention edge – see at the inner portion of items 4-6, each form an angle with respect to the cutting surface when the frame member is positioned in the spatial relation – see for example figures 1-4, and wherein the angle of the substantially planer lifting edge with respect to the cutting surface is less than 90 degrees – see for example figures 1-4, while the angle of the substantially planer retention edge with respect to the cutting surface is about 90 degrees – see for example figures 1-4 of the Japanese patent.

Referring to claim 27, the Japanese patent further discloses the cutting instrument has a blade – at 7,8, and a blade body member – at 1-3, having a slit – at 9, adapted for insertion of a blade – at 7,8,, and retaining element 5-6. The Japanese patent does not disclose the steps of removing the blade from the blade body member, replacing the blade with a replacement blade, inserting the replacement blade in the slit in the blade body member and retaining the replacement blade in the blade body member. Addis does disclose the steps of removing the blade – at 28, from the blade body member – at 14a,42, replacing the blade with a replacement blade, inserting the replacement blade in the slit in the blade body member and retaining the replacement blade in the blade body member – see for example figures 11-14 and column 3 lines 40-45. Therefore it would have been obvious to one of ordinary skill in the art to take the device of the Japanese patent and add the steps of replacing the blade of Addis, so as to allow for the blade to be replaced when it is damaged or worn out through excessive use.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over the Japanese patent as applied to claim 1 above, and further in view of U.S. Patent No. 5,581,895 to Jeffcoat. The Japanese patent further discloses the cutting edge – at 7,8, comprising a lifting edge proximate 7, and a retention edge – at 8. The Japanese patent does not disclose the lifting edge and the retention edge form an edge concave feature with respect to each other. Jeffcoat does disclose the lifting edge – proximate 30, and the retention edge – at 26, form an edge concave feature with respect to each other – see for example figures 1-2. Therefore it would have been obvious to one of ordinary skill in the art to take the device of the Japanese patent and add the cutting edge of Jeffcoat, so as to allow the blade to perform multiple tasks.

Response to Arguments

4. Regarding claims 1-29, the Japanese reference JP 3-188887 does disclose a blade – at 7-8, directly connected to the blade body member – at 1-3 as seen in figures 1-4, where the blade – at 7-8, when located inside the blade body member – at 1-3, has its lower edge directly in contact with the bottom of the channel – at 9. Further, the Japanese reference discloses the blade – at 7-8, is removable and replaceable from the blade body member – at 1-3, as seen in figure 1 where the blade – at 7-8, is pivotably connected to the blade body member – at 1-3 – at 22. Therefore, the blade – at 7-8,can be removed from blade body member – at 1-3, when pivoted as seen in figure 1 and further the blade – at 7-8, can be replaced in the blade body member – at 1-3, as seen in figure 1 where the blade body member is moved back and forth about the pivot point – at 22 to meet the definition of the term replace as found in Webster's Collegiate Dictionary 10th edition,

which is to restore to a former place or position. Further, since the blade – at 7-8, is a separate component from the blade body member – at 1-3, it is capable of being replaced by another blade element. Further, the Japanese reference discloses an acute angle end point presented at the end of the blade element – see for example at 8 in figures 1-4, where the blade is formed at an angle at one end.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Parsley whose telephone number is (571) 272-6890. The examiner can normally be reached on Monday-Friday from 8am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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